



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/324,253	06/02/1999	JERRY C. CHEN	0050.1610-000	1283

30407 7590 07/08/2004
BOWDITCH & DEWEY, LLP
161 WORCESTER ROAD
P.O. BOX 9320
FRAMINGHAM, MA 01701-9320

EXAMINER

PAYNE, DAVID C

ART UNIT PAPER NUMBER

2633

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/324,253	Applicant(s) CHEN, JERRY C.	
	Examiner David C. Payne	Art Unit 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1 and 3-34 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 June 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. The Examiner regrets the species requirement that has not been made until now in the prosecution of the application.
2. Although the applicant is only given one month to respond to this action, the following potential 112 and drawing problems are pointed out in order to promote compact prosecution. The applicant does not need to respond to these problems within the month, it would appear that correction would aid in the prosecution of the case.
3. For example, it would appear that claim 6 is directed to Figure 7, however the figure does not contain the elements of the independent claim 1, in particular a spatially mapped, dispersed signal.
4. For example, claim 15 claims a modulator comprising an attenuator ... it appears based on the specification that the applicant may be referring to gratings in Figure 7. The applicant is asked to clarify the point.
5. The drawings are objected to because drawings contain blank boxes and other shapes, which are not widely, recognized engineering symbols (see for example, (element)/Figures: (66)/Figure 6B, (648)/Figure 6C, (118)/Figure 11A, (164, 166)/Figure 12C, (150, 158)/Figure 12E). Applicant must supply a suitable legend. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following are direct quotations of 37 CFR 1.84(n), (o), repeated below:

- (n) *Symbols.* Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. **Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.**
- (o) *Legends.* **Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing.** They should contain as few words as possible.

6. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species 1) figure 6A,

Species 2) figure 6B,

Species 3) figure 6C,

Species 4) figure 7,

Species 5) figure 11A,

Species 6) figure 11B,

Species 7) figure 12A,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 8) figure 12B,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 9) figure 12C,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 10) figure 12D,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,
Subspecies B) figure 6B,
Subspecies C) figure 6C,
Subspecies D) figure 7,
Subspecies E) figure 11A,
Subspecies F) figure 11B,

Species 11) figure 12E,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,
Subspecies B) figure 6B,
Subspecies C) figure 6C,
Subspecies D) figure 7,
Subspecies E) figure 11A,
Subspecies F) figure 11B,

Species 12) figure 13A,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,
Subspecies B) figure 6B,
Subspecies C) figure 6C,
Subspecies D) figure 7,
Subspecies E) figure 11A,
Subspecies F) figure 11B,

Species 13) figure 13B,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 14) figure 13C,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 15) figure 13D,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 16) figure 14A,

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Species 17) figure 14B

Subspecies A-F are drawn toward a frequency dependent disperser

Subspecies A) figure 6A,

Subspecies B) figure 6B,

Subspecies C) figure 6C,

Subspecies D) figure 7,

Subspecies E) figure 11A,

Subspecies F) figure 11B,

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic claims.

Art Unit: 2633

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (703) 306-0004. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2633

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp

DR
Patent Examiner
AU 2633